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10/756,790	01/13/2004	Thomas Arnold Anschutz	030408 (9400-62)	2954

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EXAMINER

DALENCOURT, YVES

ART UNIT

PAPER NUMBER

2457

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03/29/2011

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/756,790

Applicant(s)

ANSCHUTZ ET AL.

Examiner

YVES DALENCOURT

Art Unit

2457

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10, 13-15, 17-28, 31-33, 35-46, 49-51 and 53-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 13-15, 17-28, 31-33, 35-46, 49-51, and 53-55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This office action is responsive to Request for Continued Examination (RCE) filed on 02/22/2011.

#### ***Response to Amendment***

The Examiner has acknowledged the amended claims 1 – 10, 13 – 15, 17, 19 – 28, 31 – 33, 35, 37 – 46, 49 – 51, 53, and 55.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

***Claim Rejections - 35 USC § 103***

Claims 1 – 10, 13 – 15, 17 – 28, 31 – 33, 35 – 46, 49 – 51, and 53 - 55 rejected under 35 U.S.C. 103(a) as being unpatentable over Amin et al (US 6,910,074; hereinafter Amin) in view of Matsubara et al (US 2004/0008688; hereinafter Matsubara).

As per claims 1 and 17, Amin teaches a method of modifying quality of service for an existing user session in a network that comprises a regional access network that facilitates differentiated end-to-end data transport between a service provider and a customer premises network that includes customer premises equipment (fig. 8; abstract; col. 2, lines 24 – 33; col. 5, lines 1 – 23), comprising:

receiving a request at the service provider to change the quality of service associated with the existing user session (col. 10, lines 7 – 16; col. 11, lines 2 – 7; and col. 24, lines 18 – 47; *Amin discloses a dynamic provisioning of QoS allows modifying the default setting to the requested setting. An implicit or explicit request comes from the end user to set or modify the existing Qos through the application server*).

Amin teaches substantially all the limitations, but fails to specifically teach the step of using application programming interface calls at the service provider to communicate with the regional access network to modify the quality of service associated with the existing user session.

However, Matsubara teaches the step of using application programming interface calls at the service provider to communicate with the regional access network to modify the quality of service associated with the existing user session (paragraphs [0120], [0127], and [0136]).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Amin by using application programming interface calls at the service provider to communicate with the regional access network to modify the quality of service associated with the existing user session as evidenced by Matsubara for the purpose of handling the rapidly increasing request of quality of services, thereby providing an efficient way to implement quality of services to users.

As per claim 2, Amin teaches the method of Claim 1, wherein receiving the request comprises: initiating the request at the service provider to change the quality of service associated with the existing user session (col. 10, lines 7 – 16; col. 11, lines 2 – 7; and col. 24, lines 18 – 47).

As per claim 3, Amin teaches the method of Claim 1, wherein receiving the request comprises: receiving the request at the service provider from a user to change the quality of service associated with the existing user session (col. 10, lines 7 – 16; col. 11, lines 2 – 7; and col. 24, lines 18 – 47).

As per claim 4, Amin teaches the method of Claim 3, wherein the quality of service associated with the existing user session is scheduling resources (col. 7, lines 23 - 43).

As per claim 5, Amin teaches the method of Claim 4, wherein using the application programming interface comprises: sending a query the service provider to the regional access network to obtain quality of service capabilities from the regional access network (col. 7, lines 23 - 43).

As per claim 6, Amin teaches the method of Claim 5, further comprising:  
presenting to the user via the service provider a quality of service option within the  
quality of service capabilities received from the regional access network (col. 7, lines 23  
- 43).

As per claim 7, Amin teaches the method of Claim 6, further comprising:  
obtaining a user selection of the quality of service option at the service provider (col. 7,  
lines 23 - 43); and updating the regional access network with information to provide the  
quality of service option for the existing user session (col. 24, lines 18 - 64).

As per claim 8, Amin teaches the method of Claim 7, further comprising: updating  
the customer premises equipment with the information to provide the quality of service  
option for the existing user session (col. 24, lines 18 - 64).

As per claim 9, Amin teaches the method of Claim 8, wherein updating the  
customer premises equipment with information comprises: sending a quality of service  
related message from the regional access network to the customer premises equipment  
that contains a request for changing the quality of service associated with the existing  
user session to the quality of service option in the customer premises equipment (col. 8,  
line 61 through col. 9, line 14; col. 10, lines 7 – 16; col. 11, lines 2 – 7; and col. 24, lines  
18 – 47).

As per claim 10, Amin teaches the method of Claim 9, wherein updating the  
regional access network with information further comprises: updating a rate limit and  
quality of service associated with a communication queue in the regional access

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network that is used to process traffic associated with the existing user session (col. 8, lines 24 – 43; col. 9, lines 39 – 46; col. 10, lines 18 - 28).

As per claim 13, Amin teaches the method of Claim 11, wherein updating the regional access network with information further comprises: updating a rate limit associated with a communication queue in the regional access network that is used to process traffic associated with the existing user session (col. 23, line 65 through col. 24, line 47; *Amin discloses binding updates between the MH, RAN, new LSF, and the user's home NSF. The MH also informs its correspondent nodes of its new care of address (COA). IP packets to the MH arriving at the old LSF after the handoff has been initiated are queued and then delivered to the new LSF once the handoff is complete. After delivering any queued packets to the MH, the new LSF allows new packets to be delivered*).

As per claim 14, Amin teaches the method of Claim 5, further comprising: authenticating the service provider with the regional access network prior to sending the query from the service provider to the regional access network (col. 9, line 15 through col. 10, line 46).

As per claim 15, Amin teaches the method of Claim 14, wherein authenticating the service provider with the regional access network comprises: sending an establish service session request message from the service provider to the regional access network that contains an identification of the service provider and the application service provider and authorization credentials (col. 9, line 15 through col. 10, line 46); and sending an establish service session response message from the regional access

network to the service provider that contains an authentication result (col. 9, line 15 through col. 10, line 46).

Regarding claim 18, the Examiner takes “**Official Notice**” that having a regional access network (RAN) that comprises a Broadband Remote Access Server (BRAS) is well known in the art. (See fig. 4; Applicant’s background).

Claims 19 – 28, and 31 – 33, 35 - 46, 49 – 51, and 53 - 55 are rejected under the same rationale as claims 1-18 because they teach the system and computer program product of the method of claims 1 – 10, 13 – 15, and 17 - 18.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wang et al (US 20030035409) discloses a system and apparatus that provides an efficient inspection of WAP traffic and enables the WAP-user to dynamically alter his WAP service selection at any time, in or out of session (see paragraph [0052 – 0054]).

JIN et al (US 2003/0039210) discloses a use of precedence bits for quality of service (see paragraphs [0024 – 0026]).

### **Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to YVES DALENCOURT whose telephone number is (571)272-3998. The examiner can normally be reached on M-F 8-5:30.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/YVES DALENCOURT/  
Primary Examiner, Art Unit 2457